

AMENDED IN SENATE MAY 31, 2011

AMENDED IN SENATE APRIL 7, 2011

SENATE BILL

No. 551

Introduced by Senator DeSaulnier

February 17, 2011

~~An act to add Article 5 (commencing with Section 6362) to, and to repeal and add Article 4 (commencing with Section 6361) of, Chapter 4 of Part 1 of Division 6 of the Public Resources Code, and to amend Sections 3, 13, and 14 of Chapter 815 of the Statutes of 1976 Resources Code, relating to tidelands, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 551, as amended, DeSaulnier. State property: tidelands transfer: City of Pittsburg and City of Martinez Marina.

(1) Existing law grants tidelands and submerged lands to the City of Pittsburg, subject to specified conditions, for purposes of commerce, navigation, and fisheries, and for other public trust purposes. ~~Existing law grants to the City of Martinez all right, title, and interest of the state to 3 specified parcels of land in the Straits of Carquinez.~~ The Kapiloff Land Bank Act creates the Land Bank Fund and continuously appropriates moneys in the fund, subject to a statutory trust, to the State Lands Commission, acting as the Land Bank Trustee, to acquire real property or any interest in real property for the purposes of public trust title settlements.

This bill would repeal the existing legislative grant to the City of Pittsburg and would enact a new grant of tidelands and submerged lands, as described, to the City of Pittsburg. ~~The bill would also revise the existing legislative grant of tidelands and submerged lands to the~~

~~City of Martinez to include the Martinez Marina, subject to similar specified conditions and would make conforming changes relative to this revision.~~ The bill would require the trust lands to be held by ~~each city~~ *the City of Pittsburg*, as trustee, for the benefit of all the people of the state for purposes consistent with the public trust doctrine, including the protection of maritime or water dependent commerce, navigation, and fisheries, and the preservation of the lands in their natural state for scientific study, open space, wildlife habitat, and water-oriented recreation.

The bill would require, on June 30, 2012, and at the end of every fiscal year thereafter, that 20% of all gross revenues generated from the trust lands be transmitted to the commission, for allocation by the Treasurer, of which 80% would be deposited in the General Fund and 20% in the Kapiloff Land Bank Fund, thereby making an appropriation.

The bill would require the commission, by January 1, 2014, to survey, monument, and record a plat and a metes and bounds description of the trust lands subject to the bill.

The bill would impose a state-mandated local program by requiring, among other things, that ~~the Cities~~ *City of Pittsburg and Martinez* ~~each~~ submit to the commission for its approval a trust lands use plan, as prescribed. The bill would require ~~each~~ *the* city to file a report with the commission by September 30, 2022, and every 5 years thereafter, *on its uses of the trust lands, and to annually file* a detailed statement ~~of its trust land uses and to annually file a report~~ of trust revenues and expenditures.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Article 4 (commencing with Section 6361) of
- 2 Chapter 4 of Part 1 of Division 6 of the Public Resources Code is
- 3 repealed.

1 SEC. 2. Article 4 (commencing with Section 6361) is added
2 to Chapter 4 of Part 1 of Division 6 of the Public Resources Code,
3 to read:

4
5 Article 4. Conveyance of Tidelands and Submerged Land to
6 the City of Pittsburg
7

8 6361. For purposes of this article, the following definitions
9 shall apply:

10 (a) “Public trust doctrine” means the common law doctrine, as
11 enunciated by the court in *National Audubon Soc. v. Superior*
12 *Court* (1983) 33 C.3d 419, and other relevant judicial decisions,
13 specifying the state’s authority as sovereign to exercise a
14 continuous supervision and control over the navigable waters of
15 the state, the lands underlying those waters, and nonnavigable
16 tributaries to navigable waters, including the maritime or water
17 dependent commerce, navigation, and fisheries, and the
18 preservation of lands in their natural state for scientific study, open
19 space, wildlife habitat, and water-oriented recreation.

20 (b) “State” means the State of California.

21 (c) “Trustee” means the City of Pittsburg, a municipal
22 corporation of the State of California, in Contra Costa County.

23 (d) “Trust lands” means all tidelands and submerged lands,
24 whether filled or unfilled, situated within the boundaries of the
25 City of Pittsburg including those lands annexed to the City of
26 Pittsburg pursuant to Section 56740 of the Government Code on
27 December 31, 2009, as surveyed, monumented, and recorded
28 pursuant to Section 6361.9, except as provided in Section 6361.8.

29 (e) “Trust revenues” means all revenues received from trust
30 lands and trust assets.

31 (f) “Trust lands use plan” or “plan” means the trust use land
32 plan required to be submitted by the trustee to the commission
33 pursuant to Section 6361.3.

34 (g) “Trust lands use report” means the trust lands use report of
35 its utilization of the trust lands required to be submitted by the
36 trustee pursuant to Section 6361.4.

37 6361.1. There is hereby granted in trust to the City of Pittsburg,
38 and to its successors, all of the rights, title, and interest of the state,
39 held by the state by virtue of its sovereignty in and to all tide and
40 submerged lands, whether filled or unfilled, situated in the City

1 of Pittsburg, County of Contra Costa, including those lands
2 annexed to the City of Pittsburg pursuant to Section 56740 of the
3 Government Code on December 31, 2009, as surveyed,
4 monumented, and recorded pursuant to Section 6361.9, except as
5 provided in Section 6361.8.

6 6361.2. The trust grant specified in Section 6361.1 is subject
7 to all of the following express conditions:

8 (a) The trust lands shall be held by the trustee in trust for the
9 benefit of all the people of the state for purposes consistent with
10 the public trust doctrine, including, but not limited to, maritime
11 or water dependent commerce, navigation, and fisheries,
12 preservation of the lands in their natural state for scientific study,
13 open space, wildlife habitat, and water-oriented recreation.

14 (b) On and after January 1, 2012, the use of the trust lands shall
15 conform to an approved trust lands use plan, as required by
16 subdivision (e) of Section 6361.3.

17 (c) The trustee shall not, at any time, grant, convey, give, or
18 otherwise alienate or hypothecate the trust lands, or any part of
19 the trust lands, to any person, firm, entity, or corporation for any
20 purposes whatsoever.

21 (d) The trustee may lease the trust lands, or any part of the trust
22 lands, for limited periods, not exceeding 49 years, for purposes
23 consistent with the trust upon which those lands are held, as
24 specified in subdivision (a). The trustee may collect and retain
25 rents and other trust revenues from those leases, under rules and
26 regulations adopted in accordance with subdivision (d) of Section
27 6361.3, and in accordance with all of the following requirements:

28 (1) On and after January 1, 2012, all leases or agreements
29 proposed or entered into by the trustee shall be consistent with the
30 trust lands use plan approved by the commission, as required by
31 subdivision (e) of Section 6361.3.

32 (2) The lease rental rates shall be for fair market value.

33 (3) The lease terms shall be consistent with the terms of this
34 article.

35 (4) The lease shall be in the best interest of the state.

36 (e) When managing, conducting, operating, or controlling the
37 trust lands or an improvement, betterment, or structure on the trust
38 lands, the trustee or his or her successor shall not discriminate in
39 rates, tolls, or charges for any use or service in connection with
40 those actions and shall not discriminate against or unlawfully

1 segregate any person or group of persons because of sex, race,
2 color, creed, national origin, ancestry, or physical disability for
3 any use or service in connection with those actions.

4 (f) The state shall have the right to use without charge, a
5 transportation, landing, or storage improvement, betterment, or
6 structure constructed upon the trust lands for a vessel or other
7 watercraft or railroad owned or operated by, or under contract to,
8 the state.

9 (g) The trust lands are subject to the express reservation and
10 condition that the state may, at any time in the future, use those
11 lands, or any portion of those lands, for highway purposes without
12 compensation to the City of Pittsburg or a person, firm, or public
13 or private corporation claiming a right to those lands, except if the
14 improvements have been placed with legal authority upon the
15 property taken by the state for highway purposes, compensation
16 shall be made to the person entitled to the value of the interest in
17 the improvements taken or the damages to that interest.

18 (h) There is reserved to the people of the state the right to fish
19 in the waters over the trust lands, with the right of convenient
20 access to those waters over the trust lands for this purpose.

21 (i) There is excepted and reserved to the state all remains or
22 artifacts of archeological or historical significance and all deposits
23 of minerals, including, but not limited to, all substances specified
24 in Section 6407 in the trust lands, and the right to prospect for,
25 mine, and remove those deposits from the lands.

26 (j) The trustee shall not authorize a capital outlay project, lease,
27 or agreement for port industrial facilities, including, but not limited
28 to, a marine terminal, pipeline, or other related energy facility, on
29 the trust lands without first requesting and receiving the approval
30 of the commission. Prior to approving a capital outlay project,
31 lease, or agreement, the commission shall consult with other
32 governmental agencies, and the commission shall not approve the
33 project, lease, or agreement, unless the commission determines
34 that the project is in, and for, the best interest of the people of the
35 state and consistent with applicable provisions of law.

36 (k) The trustee shall reimburse the commission for all expenses
37 incurred in the administration of this article, including periodic
38 audits or investigations.

39 6361.3. (a) On or before January 1, 2017, the trustee shall
40 submit to the commission a trust lands use plan describing any

1 proposed development, preservation, or other use of the trust lands.
2 The trustee shall thereafter submit to the commission for approval
3 all changes of, amendments to, or extensions of, the trust lands
4 use plan.

5 (b) The commission shall review with reasonable promptness
6 the trust lands use plan submitted by the trustee and any changes
7 or amendments to determine whether they are consistent with the
8 public trust and the requirements of this article. Based upon its
9 review, the commission shall either approve or disapprove the
10 plan. If the commission disapproves the plan the commission shall
11 notify the trustee and the trustee shall submit a revised plan to the
12 commission no later than 180 days after the date of notice of
13 disapproval. If the commission determines the revised plan is
14 inconsistent with the common law public trust doctrine and the
15 requirements of this article, all rights, title, and interest of the
16 trustee in and to the trust lands and improvements on the trust lands
17 shall revert to the state.

18 (c) The trust lands use plan shall consist of a plan, program, or
19 other document that includes all of the following:

20 (1) A general description of the type of uses planned or proposed
21 for the trust lands. The location of these land uses shall be shown
22 on a map or aerial photograph.

23 (2) The projected statewide benefit to be derived from the
24 planned or proposed uses of the trust lands, including, but not
25 limited to, the financial benefit and the furtherance of those
26 purposes set forth in Section 6361.2.

27 (3) The proposed method of financing the planned or proposed
28 uses of the trust lands, including estimated capital costs, annual
29 operating costs, and anticipated annual trust revenues.

30 (4) An estimated timetable for implementation of the trust land
31 use plan or any phase of the plan.

32 (5) A description of how the trustee proposes to protect and
33 preserve natural and manmade resources and facilities located on
34 trust lands and operated in connection with the use of the trust
35 lands, including, but not limited to, addressing impacts from sea
36 level rise.

37 (d) The governing body of the trustee shall also submit to the
38 commission, as part of the trust lands use plan, for its approval,
39 procedures, rules, and regulations to govern the use of or
40 development of the trust lands. These rules and regulations shall

1 include, but are not limited to, lease rates, the basis upon which
2 the rates are established, lease terms and conditions, provisions
3 for renegotiation of rates and terms and assignments, and any other
4 information as may be required by the commission.

5 (e) Any use of the trust lands, including, but not limited to, all
6 leases or agreements proposed, or entered into, by the trustee after
7 January 1, 2012, shall be consistent with the trust lands use plan
8 submitted by the trustee and approved by the commission.

9 (f) Upon request, the trustee shall submit to the commission a
10 copy of all leases and agreements entered into, renewed, or
11 renegotiated.

12 6361.4. (a) On or before September 30, 2022, and on or before
13 September 30 of every succeeding fifth year, the trustee shall
14 submit *to the commission* a report of its utilization of the trust lands
15 for each immediately preceding five-calendar-year period ending
16 with June 30 of the calendar year in which the report is required
17 to be submitted.

18 (b) The report required by this section shall include all of the
19 following:

20 (1) A general description of the uses to which the trust lands
21 have been placed during the period covered by the report.

22 (2) A list of the holders of leases or permits that have been
23 granted or issued by the trustee, which list shall specify all of the
24 following, as to each holder:

25 (A) The use to which the trust lands have been placed by the
26 owner or holder.

27 (B) The consideration provided for in each lease or permit, and
28 the consideration actually received by the trustee for the lease or
29 permit granted or issued.

30 (C) An enumeration of the restrictions that the trustee has placed
31 on the use of the trust lands, and each area of the trust lands, for
32 the period covered by the report.

33 6361.5. (a) The trustee shall demonstrate good faith in carrying
34 out the provisions of its trust land use plan and amending it when
35 necessary in accordance with Section 6361.3.

36 (b) If the commission determines that the trustee substantially
37 failed to improve, restore, preserve, or maintain the trust lands, as
38 required by the trust land use plan, or has unreasonably delayed
39 implementation of their trust use plan, all rights, title, and interest

1 of the trustee in and to the trust lands and improvements on the
2 trust lands shall revert to the state.

3 6361.6. (a) (1) The trustee shall establish and maintain
4 accounting procedures, in accordance with generally accepted
5 accounting principles, providing accurate records of all revenues
6 received from the trust lands and trust assets and of all expenditures
7 of those revenues.

8 (2) All trust revenues received from trust lands and trust assets
9 shall be expended only for those uses and purposes consistent with
10 this article. The trustee shall provide for the segregation of funds
11 derived from the use of the trust lands by the trustee from other
12 city municipal funds, so as to ensure that trust revenues are only
13 expended to enhance or maintain the trust lands in accordance with
14 the uses and purposes for which the trust lands are held.

15 (3) Trust revenues may be expended to acquire appropriate
16 upland properties to benefit and enhance the trust, subject to a
17 determination by the commission that this acquisition is consistent
18 with this article and in the best interests of the state. Property
19 acquired with these trust revenues shall be considered an asset of
20 the trust and subject to the terms and conditions of this article.

21 (b) On or before October 1 of each year, the trustee shall file
22 with the commission a detailed statement of all trust revenues and
23 expenditures relating to its trust lands and trust assets, including
24 obligations incurred but not yet paid, covering the fiscal year
25 preceding submission of the statement. The commission may
26 specify the form and content of this statement. The statement shall
27 meet both of the following requirements:

28 (1) The statement shall be prepared according to generally
29 accepted accounting principles.

30 (2) The statement shall be specific to the trust lands and trust
31 assets and shall not include city municipal financial or accounting
32 information unrelated to the trust lands and trust assets.

33 (c) (1) Before expending trust revenues for any single capital
34 improvement on the trust lands involving an amount in excess of
35 two hundred fifty thousand dollars (\$250,000) in the aggregate,
36 the trustee shall file with the commission a detailed description of
37 the capital improvement not less than 120 days prior to the time
38 of any disbursement of trust revenues for, or in connection with,
39 that capital improvement.

1 (2) Within 120 days after the time of a filing specified in
2 paragraph (1), the commission shall determine, whether the capital
3 improvement is in the statewide interest and benefit and is
4 consistent with this article. The commission may request the
5 opinion of the Attorney General on the matter, and if the
6 commission makes this request, the Attorney General shall deliver
7 a copy of the opinion to the trustee with the notice of its
8 determination.

9 (3) If the commission notifies the trustee that the capital
10 improvement is not authorized, the trustee shall not disburse any
11 trust revenues for, or in connection with, the capital improvement,
12 unless it is determined to be authorized by a final order or judgment
13 of a court of competent jurisdiction.

14 (4) The trustee may bring suit against the state for the purpose
15 of securing an order or judgment for purposes of paragraph (3),
16 which suit shall have priority over all other civil matters. Service
17 shall be made upon the executive officer of the commission and
18 the Attorney General, and the Attorney General shall defend the
19 state in that suit. If judgment is given against the state in the suit,
20 no costs may be recovered.

21 (d) On June 30, 2012, and at the end of every fiscal year
22 thereafter, 20 percent of all gross revenue generated from the trust
23 lands shall be transmitted to the commission. Of this amount
24 transmitted, the commission shall allocate 80 percent to the
25 Treasurer, for deposit in the General Fund, and 20 percent to the
26 Treasurer, for deposit in the Kapiloff Land Bank Fund for
27 expenditure pursuant to Division 7 (commencing with Section
28 8600) for management of the commission's grant lands program.

29 (e) The commission may, from time to time, institute a formal
30 inquiry to determine that the terms and conditions of this article,
31 and amendments to this article, have been complied with, and that
32 all other applicable provisions of law concerning the trust lands
33 are being complied with in good faith.

34 (f) The commission shall approve in advance of expenditure
35 any reimbursement for expenditures of nontrust revenues for
36 improvements made to the trust or, if not approved, those
37 expenditures shall be deemed a gift to the trust.

38 6361.7. (a) If the commission finds that the trustee has violated
39 or is about to violate the terms of its trust grant or any other
40 principle of law relating to its obligation under the public trust

1 doctrine or under this article, the commission shall notify the
2 trustee of the violation.

3 (b) The trustee shall have 30 days from receipt of a notice of
4 violation to conform to the terms of its grant and the principles
5 and laws under the public trust doctrine. If the trustee fails or
6 refuses to take those actions, the commission may bring an action
7 to enforce the rights of the state and people as settlor beneficiary
8 of the public trust doctrine.

9 (c) The Attorney General shall represent the state and people
10 in all actions or proceedings taken pursuant to this section. If the
11 judgment is given against the state in the action or proceeding, no
12 costs shall be recovered from the state and people.

13 6361.8. The lands identified as Brown's Island, Commission
14 Lease Number PRC 4966 CPN Pipeline, and Commission Lease
15 Number PRC 8736 are not included as trust lands for purposes of
16 this article.

17 6361.9. (a) On or before January 1, 2014, the commission
18 shall survey, monument, and record a plat and a metes and bounds
19 description of the trust lands in the office of the county recorder
20 in the county or counties in which the lands are located. Upon
21 recordation, the survey, monuments, plat and description shall be
22 binding upon the state, the grantee, and their successors in interest.

23 (b) The cost of the survey and recordation shall be paid by the
24 trustee.

25 (c) The requirements of Section 6359 do not apply to the trust
26 lands granted pursuant to this article.

27 ~~SEC. 3. Article 5 (commencing with Section 6362) is added~~
28 ~~to Chapter 4 of Part 1 of Division 6 of the Public Resources Code,~~
29 ~~to read:~~

30
31 ~~Article 5. Conveyance of Tidelands and Submerged Land to~~
32 ~~the City of Martinez~~
33

34 ~~6362. For purposes of this article, the following definitions~~
35 ~~shall apply:~~

36 (a) ~~"Public trust doctrine" means the common law doctrine, as~~
37 ~~enunciated by the court in National Audubon Soc. v. Superior~~
38 ~~Court (1983) 33 C.3d 419, and other relevant judicial decisions,~~
39 ~~specifying the state's authority as sovereign to exercise a~~
40 ~~continuous supervision and control over the navigable waters of~~

1 the state, the lands underlying those waters, and nonnavigable
2 tributaries to navigable waters, including the protection of maritime
3 or water dependent commerce, navigation, and fisheries, and the
4 preservation of the lands in their natural state for scientific study,
5 open space, wildlife habitat, and water-oriented recreation.

6 (b) “State” means the State of California.

7 (c) “Trustee” means the City of Martinez, a municipal
8 corporation of the State of California, in Contra Costa County.

9 (d) “Trust lands” means all tidelands and submerged lands,
10 whether filled or unfilled, granted pursuant to Chapter 815 of the
11 Statutes of 1976, as revised pursuant to Section 6362.1, situated
12 in the City of Martinez, County of Contra Costa, and as surveyed,
13 monumented, and recorded pursuant to Section 6362.9.

14 (e) “Trust revenues” means all revenues received from trust
15 lands and trust assets.

16 (f) “Trust lands use plan” or “plan” means the trust use land
17 plan required to be submitted by the trustee to the commission
18 pursuant to Section 6362.3.

19 (g) “Trust lands use report” means the trust lands use report of
20 its utilization of the trust lands required to be submitted by the
21 trustee pursuant to Section 6362.4.

22 6362.1. (a) The grant made pursuant to Section 3 of Chapter
23 815 of the Statutes of 1976, as amended by Section 1 of Chapter
24 387 of the Statutes of 2002, is hereby amended and recodified.

25 (b) There is hereby granted to the City of Martinez, and to its
26 successors, all right, title, and interest of the state held by virtue
27 of its sovereignty in and to the Martinez Marina and the three
28 parcels of land situated in the County of Contra Costa and
29 described as follows:

30
31 **Pareel “A”**

32 Commencing at the intersection of the north line of Tideland
33 Survey No. 9 and the east line of North Court Street as shown on
34 Map of “City of Martinez Waterfront Area” filed March 10, 1955,
35 in Volume 16, Pages 39 to 43, Licensed Surveyor’s Maps in the
36 Office of the Contra Costa County Recorder; thence along said
37 northerly line of Tideland Survey No. 9 North 76° 56’ 53” East
38 488.36 feet; thence leaving said northerly line North 20° 03’ 30”
39 West 130.00 feet; thence North 63° 50’ 00” East 85.00 feet to the
40 true point of beginning; thence North 03° 30’ 00” East 110.00 feet;

1 thence North $12^{\circ}10'00''$ East 660.00 feet; thence North $05^{\circ}05'$
2 $39''$ West 119.71 feet; thence North $88^{\circ}03'16''$ East 242.85 feet;
3 thence South $12^{\circ}10'00''$ West 797.24 feet; thence South $63^{\circ}50'$
4 $00''$ West 233.84 feet to the point of beginning.

5
6 Parcel "B"

7 Commencing at the intersection of the north line of Tideland
8 Survey No. 9 and the east line of North Court Street as shown on
9 Map of "City of Martinez Waterfront Area" filed March 10, 1955;
10 in Volume 16, Pages 39 to 43, Licensed Surveyor's Maps in the
11 Office of the Contra Costa County Recorder; thence along said
12 northerly line of Tideland Survey No. 9 North $76^{\circ}56'53''$ East
13 488.36 feet; thence leaving said northerly line North $20^{\circ}03'30''$
14 West 130.00 feet; thence North $63^{\circ}50'00''$ East 318.84 feet to
15 the true point of beginning being the southeasterly corner of Parcel
16 "A" described above; thence North $12^{\circ}10'00''$ East 797.24 feet
17 along the east line of said Parcel "A"; thence leaving said east line
18 North $88^{\circ}03'16''$ East 156.26 feet; thence South $89^{\circ}00'00''$ East
19 100.00 feet; thence South $66^{\circ}20'00''$ East 120.00 feet; thence
20 South $25^{\circ}45'00''$ East 453.00 feet; thence South $68^{\circ}10'00''$ West
21 385.00 feet; thence South $63^{\circ}50'00''$ West 416.16 feet to the point
22 of beginning.

23
24 Parcel "C"

25 That parcel of land described in the lease to the Southern Pacific
26 Transportation Company by the City of Martinez per Resolution
27 No. 111 (1959 series) dated August 5, 1959, and Resolution No.
28 72-75 dated June 4, 1975.

29 The bearings and distances used in the above descriptions of
30 Parcels "A" and "B" are based on the California Coordinate System
31 Zone 3 as shown on Map of "City of Martinez Waterfront Area"
32 filed March 10, 1955, in Volume 16, Pages 39 to 43, Licensed
33 Surveyor's Maps in the Office of the Contra Costa County
34 Recorder.

35 (e) These lands shall be held by the city and its successor in
36 trust for the following uses, in which there is a general, statewide
37 interest, and upon the following express conditions:

38 (1) The Martinez Marina shall be used only for marina purposes.

39 (2) Parcel "A" shall be used only for Marina spoils and spoil
40 removal, parking, boat storage, chandlery, recreation, landscaping,

1 and any other use permitted by the Martinez Waterfront Land Use
2 Plan.

3 (3) ~~Parcel “B” shall be used only for Marina spoils and spoil~~
4 ~~removal and any other use permitted by the Martinez Waterfront~~
5 ~~Land Use Plan.~~

6 (4) ~~Parcel “C” shall be used only in its present use as a railroad~~
7 ~~right-of-way.~~

8 (d) ~~Further, all of these uses shall accord with the terms and~~
9 ~~conditions of the lease and agreements specified in subdivision (f)~~
10 ~~of Section 1 of Chapter 815 of the Statutes of 1976, and the~~
11 ~~development and operation of the entire area of these parcels shall~~
12 ~~be under the supervision of the city-state committee, in the same~~
13 ~~manner as is presently provided by the lease and agreements with~~
14 ~~respect to lands subject to the lease and agreements.~~

15 (e) ~~The grant made by this section shall not become effective~~
16 ~~unless and until the city files quitclaim to all previously granted~~
17 ~~tidelands that are within the area hereby granted to the district by~~
18 ~~Chapter 815 of the Statutes of 1976 and described in Section 15~~
19 ~~of Chapter 815 of the Statutes of 1976.~~

20 6362.2. ~~The trust grant specified in Section 6362.1 is subject~~
21 ~~to all of the following express conditions:~~

22 (a) ~~The trust lands shall be held by the trustee in trust for the~~
23 ~~benefit of all the people of the state for purposes consistent with~~
24 ~~the public trust doctrine, including, but not limited to, maritime~~
25 ~~or water dependent commerce, navigation, and fisheries;~~
26 ~~preservation of the lands in their natural state for scientific study;~~
27 ~~open space, wildlife habitat, and water-oriented recreation.~~

28 (b) ~~On and after January 1, 2012, the use of the trust lands shall~~
29 ~~conform to an approved trust lands use plan, as required by~~
30 ~~subdivision (c) of Section 6362.3.~~

31 (c) ~~The trustee shall not, at any time, grant, convey, give, or~~
32 ~~otherwise alienate or hypothecate the trust lands, or any part of~~
33 ~~the trust lands, to any person, firm, entity, or corporation for any~~
34 ~~purposes whatsoever.~~

35 (d) ~~The trustee may lease the trust lands, or any part of the trust~~
36 ~~lands, for limited periods, not exceeding 49 years, for purposes~~
37 ~~consistent with the trust upon which those lands are held, as~~
38 ~~specified in subdivision (a). The trustee may collect and retain~~
39 ~~rents and other trust revenues from those leases, under rules and~~

1 regulations adopted in accordance with subdivision (d) of Section
2 6362.3, in accordance with the following requirements:

3 (1) ~~All leases or agreements proposed or entered into by the~~
4 ~~trustee shall be consistent with the trust lands use plan approved~~
5 ~~by the commission, as required by subdivision (e) of Section~~
6 ~~6362.3.~~

7 (2) ~~The lease rental rates shall be for fair market value.~~

8 (3) ~~The lease terms shall be consistent with the terms of this~~
9 ~~act.~~

10 (4) ~~The lease shall be in the best interest of the state.~~

11 (e) ~~When managing, conducting, operating, or controlling the~~
12 ~~trust lands or an improvement, betterment, or structure on the trust~~
13 ~~lands, the trustee or his or her successor shall not discriminate in~~
14 ~~rates, tolls, or charges for any use or service in connection with~~
15 ~~those actions and shall not discriminate against or unlawfully~~
16 ~~segregate any person or group of persons because of sex, race,~~
17 ~~color, creed, national origin, ancestry, or physical disability for~~
18 ~~any use or service in connection with those actions.~~

19 (f) ~~The state shall have the right to use without charge, a~~
20 ~~transportation, landing, or storage improvement, betterment, or~~
21 ~~structure constructed upon the trust lands for a vessel or other~~
22 ~~watercraft or railroad owned or operated by, or under contract to,~~
23 ~~the state.~~

24 (g) ~~The trust lands are subject to the express reservation and~~
25 ~~condition that the state may, at any time in the future, use those~~
26 ~~lands, or any portion of those lands, for highway purposes without~~
27 ~~compensation to the City of Martinez or a person, firm, or public~~
28 ~~or private corporation claiming a right to those lands, except if~~
29 ~~improvements have been placed with legal authority upon the~~
30 ~~property taken by the state for highway purposes, compensation~~
31 ~~shall be made to the person entitled to the value of the interest in~~
32 ~~the improvements taken or the damages to that interest.~~

33 (h) ~~There is reserved to the people of the state the right to fish~~
34 ~~in the waters over the trust lands, with the right of convenient~~
35 ~~access to such waters over the trust lands for this purpose.~~

36 (i) ~~There is excepted and reserved to the state all remains or~~
37 ~~artifacts of archeological or historical significance and all deposits~~
38 ~~of minerals, including, but not limited to, all substances specified~~
39 ~~in Section 6407 in the trust lands, and the right to prospect for,~~
40 ~~mine, and remove those deposits from the lands.~~

1 ~~(j) The trustee shall not authorize a capital outlay project, lease,~~
2 ~~or agreement for port industrial facilities, including, but not limited~~
3 ~~to, a marine terminal, pipeline, or other related energy facility, on~~
4 ~~the trust lands without first requesting and receiving the approval~~
5 ~~of the commission. Prior to approving a capital outlay project,~~
6 ~~lease, or agreement, the commission shall consult with other~~
7 ~~governmental agencies, and the commission shall not approve the~~
8 ~~project, lease, or agreement, unless the commission determines~~
9 ~~that the project is in, and for, the best interest of the people of the~~
10 ~~state and consistent with applicable provisions of law.~~

11 ~~(k) The trustee shall reimburse the commission for all expenses~~
12 ~~incurred in the administration of this article, including periodic~~
13 ~~audits or investigations.~~

14 ~~6362.3.— (a) On or before January 1, 2017, the trustee shall~~
15 ~~submit to the commission a trust lands use plan describing any~~
16 ~~proposed development, preservation, or other use of the trust lands.~~
17 ~~The trustee shall thereafter submit to the commission for approval~~
18 ~~all changes of, amendments to, or extensions of, the trust lands~~
19 ~~use plan.~~

20 ~~(b) The commission shall review with reasonable promptness~~
21 ~~the trust lands use plan submitted by the trustee and any changes~~
22 ~~or amendments to determine that they are consistent with the public~~
23 ~~trust and the requirements of this article. Based upon its review,~~
24 ~~the commission shall either approve or disapprove the plan. If the~~
25 ~~commission disapproves the plan the commission shall notify the~~
26 ~~trustee and the trustee shall submit a revised plan to the commission~~
27 ~~no later than 180 days after the date of notice of disapproval. If~~
28 ~~the commission determines the revised plan is inconsistent with~~
29 ~~the common law public trust doctrine and the requirements of this~~
30 ~~article, all rights, title, and interest of the trustee in and to the trust~~
31 ~~lands and improvements on the trust lands shall revert to the state.~~

32 ~~(c) The trust lands use plan shall consist of a plan, program, or~~
33 ~~other document that includes all of the following:~~

34 ~~(1) A general description of the type of uses planned or proposed~~
35 ~~for the trust lands. The location of these land uses shall be shown~~
36 ~~on a map or aerial photograph.~~

37 ~~(2) The projected statewide benefit to be derived from the~~
38 ~~planned or proposed uses of the trust lands, including, but not~~
39 ~~limited to, the financial benefit and the furtherance of those~~
40 ~~purposes set forth in Section 6362.2.~~

1 ~~(3) The proposed method of financing the planned or proposed~~
2 ~~uses of the trust lands, including estimated capital costs, annual~~
3 ~~operating costs, and anticipated annual trust revenues.~~

4 ~~(4) An estimated timetable for implementation of the trust land~~
5 ~~use plan or any phase of the plan.~~

6 ~~(5) A description of how the trustee proposes to protect and~~
7 ~~preserve natural and manmade resources and facilities located on~~
8 ~~trust lands and operated in connection with the use of the trust~~
9 ~~lands, including, but not limited to, addressing impacts from sea~~
10 ~~level rise.~~

11 ~~(d) The governing body of the trustee shall also submit to the~~
12 ~~commission, as part of the trust lands use plan, for its approval,~~
13 ~~procedures, rules, and regulations to govern the use of or~~
14 ~~development of the trust lands. These rules and regulations shall~~
15 ~~include, but not be limited to, lease rates, the basis upon which the~~
16 ~~rates are established, lease terms and conditions, provisions for~~
17 ~~renegotiation of rates and terms and assignments, and any other~~
18 ~~information as may be required by the commission.~~

19 ~~(e) Any use of the trust lands, including, but not limited to, all~~
20 ~~leases or agreements proposed, or entered into, by any trustee after~~
21 ~~January 1, 2012, shall be consistent with the trust lands use plan~~
22 ~~submitted by the trustee and approved by the commission.~~

23 ~~(f) Upon request, the trustee shall submit to the commission a~~
24 ~~copy of all leases and agreements entered into, renewed, or~~
25 ~~renegotiated.~~

26 ~~6362.4. (a) On or before September 30, 2022, and on or before~~
27 ~~September 30 of every succeeding fifth year, the trustee shall~~
28 ~~submit a report of its utilization of the trust lands for each~~
29 ~~immediately preceding five-calendar-year period ending with June~~
30 ~~30 of the calendar year in which the report is required to be~~
31 ~~submitted.~~

32 ~~(b) The report required by this section shall include all of the~~
33 ~~following:~~

34 ~~(1) A general description of the uses to which the trust lands~~
35 ~~have been placed during the period covered by the report.~~

36 ~~(2) A list of the holders of leases or permits that have been~~
37 ~~granted or issued by the trustee, which list shall specify all of the~~
38 ~~following, as to each holder:~~

39 ~~(A) The use to which the trust lands have been placed by the~~
40 ~~owner or holder.~~

1 ~~(B) The consideration provided for in each lease or permit, and~~
2 ~~the consideration actually received by the trustee for the lease or~~
3 ~~permit granted or issued.~~

4 ~~(C) An enumeration of the restrictions that the trustee has placed~~
5 ~~on the use of the trust lands, and each area of the trust lands, for~~
6 ~~the period covered by the report.~~

7 ~~6362.5. (a) The trustee shall demonstrate good faith in carrying~~
8 ~~out the provisions of its trust land use plan and amending it when~~
9 ~~necessary in accordance with Section 6362.3.~~

10 ~~(b) If the commission determines that the trustee substantially~~
11 ~~failed to improve, restore, preserve, or maintain the trust lands, as~~
12 ~~required by the trust land use plan, or has unreasonably delayed~~
13 ~~implementation of their trust use plan, all rights, title, and interest~~
14 ~~of the trustee in and to the trust lands and improvements on the~~
15 ~~trust lands shall revert to the state.~~

16 ~~6362.6. (a) (1) The trustee shall establish and maintain~~
17 ~~accounting procedures, in accordance with generally accepted~~
18 ~~accounting principles, providing accurate records of all revenues~~
19 ~~received from the trust lands and trust assets and of all expenditures~~
20 ~~of those revenues.~~

21 ~~(2) All trust revenues received from trust lands and trust assets~~
22 ~~shall be expended only for those uses and purposes consistent with~~
23 ~~this article, so as provided for in the segregation of funds derived~~
24 ~~from the use of the trust lands by the trustee from other city~~
25 ~~municipal funds, and to ensure that trust revenues are only~~
26 ~~expended to enhance or maintain the trust lands in accordance with~~
27 ~~the uses and purposes for which the trust lands are held.~~

28 ~~(3) Trust revenues may be expended or used to acquire~~
29 ~~appropriate upland properties to benefit and enhance the trust,~~
30 ~~subject to a determination by the commission that this acquisition~~
31 ~~is consistent with this article and in the best interests of the state.~~
32 ~~Property acquired with these trust revenues shall be considered an~~
33 ~~asset of the trust and subject to the terms and conditions of this~~
34 ~~article.~~

35 ~~(b) On or before October 1 of each year, the trustee shall file~~
36 ~~with the commission a detailed statement of all trust revenues and~~
37 ~~expenditures relating to its trust lands and trust assets, including~~
38 ~~obligations incurred but not yet paid, covering the fiscal year~~
39 ~~preceding submission of the statement. The commission may~~

1 specify the form and content of this statement. The statement shall
2 meet both of the following requirements:

3 (1) ~~The statement shall be prepared according to generally~~
4 ~~accepted accounting principles.~~

5 (2) ~~The statement shall be specific to the trust lands and trust~~
6 ~~assets and shall not include city municipal financial or accounting~~
7 ~~information unrelated to the trust lands and trust assets.~~

8 (c) (1) ~~Before expending trust revenues for any single capital~~
9 ~~improvement on the trust lands involving an amount in excess of~~
10 ~~two hundred fifty thousand dollars (\$250,000) in the aggregate,~~
11 ~~the trustee shall file with the commission a detailed description of~~
12 ~~the capital improvement not less than 120 days prior to the time~~
13 ~~of any disbursement of trust revenues for, or in connection with,~~
14 ~~that capital improvement.~~

15 (2) ~~Within 120 days after the time of a filing specified in~~
16 ~~paragraph (1), the commission shall determine, whether the capital~~
17 ~~improvement is in the statewide interest and benefit and is~~
18 ~~consistent with this article. The commission may request the~~
19 ~~opinion of the Attorney General on the matter; and if it does so, a~~
20 ~~copy of the opinion shall be delivered to the trustee with the notice~~
21 ~~of its determination.~~

22 (3) ~~If the commission notifies the trustee that the capital~~
23 ~~improvement is not authorized, the trustee shall not disburse any~~
24 ~~trust revenues for, or in connection with, the capital improvement,~~
25 ~~unless it is determined to be authorized by a final order or judgment~~
26 ~~of a court of competent jurisdiction.~~

27 (4) ~~The trustee may bring suit against the state for the purpose~~
28 ~~of securing an order or judgment for purposes of paragraph (3),~~
29 ~~which suit shall have priority over all other civil matters. Service~~
30 ~~shall be made upon the executive officer of the commission and~~
31 ~~the Attorney General, and the Attorney General shall defend the~~
32 ~~state in that suit. If judgment is given against the state in the suit,~~
33 ~~no costs may be recovered.~~

34 (d) ~~On June 30, 2012, and at the end of every fiscal year~~
35 ~~thereafter, 20 percent of all gross revenue generated from the trust~~
36 ~~lands shall be transmitted to the commission. Of this amount~~
37 ~~transmitted, 80 percent shall be transferred to the General Fund~~
38 ~~and 20 percent shall be deposited into the Kapiloff Land Bank~~
39 ~~Fund (Division 7 (commencing with Section 8600)) for expenditure~~

1 pursuant to that division for management of the commission's
2 granted lands program.

3 (e) The commission may, from time to time, institute a formal
4 inquiry to determine that the terms and conditions of this article,
5 and amendments to this article, have been complied with, and that
6 all other applicable provisions of law concerning the trust lands
7 are being complied with in good faith.

8 (f) The commission shall approve in advance of expenditure
9 any reimbursement for expenditures of nontrust revenues for
10 improvements made to the trust or, if not approved, those
11 expenditures shall be deemed a gift to the trust.

12 6362.7. (a) If the commission finds that the trustee has violated
13 or is about to violate the terms of its trust grant or any other
14 principle of law relating to its obligation under the public trust
15 doctrine or under this article, the commission shall notify the
16 trustee of the violation.

17 (b) The trustee shall have 30 days from receipt of a notice of
18 violation to conform to the terms of its grant and the principles
19 and laws under the public trust doctrine. If the trustee fails or
20 refuses to take those actions, the commission may bring an action
21 to enforce the rights of the state and people as settlor beneficiary
22 of the public trust doctrine.

23 (c) The Attorney General shall represent the state and people
24 in all actions or proceedings taken pursuant to this section. If the
25 judgment is given against the state in the action or proceeding, no
26 costs shall be recovered from the state and people.

27 6362.9. (a) On or before January 1, 2014, the commission
28 shall survey, monument, and record a plat and a metes and bounds
29 description of the trust lands in the office of the county recorder
30 in the county or counties in which the lands are located. Upon
31 recordation, the survey, monuments, plat and description shall be
32 binding upon the state, the grantee, and their successors in interest.

33 (b) The cost of the survey and recordation shall be paid by the
34 trustee.

35 (c) The requirements of Section 6359 do not apply to the trust
36 lands granted pursuant to this article.

37 SEC. 4. Section 3 of Chapter 815 of the Statutes of 1976, as
38 amended by Section 1 of Chapter 387 of the Statutes of 2002, is
39 amended to read:

1 ~~Sec.3.—(a) The grant made pursuant to this section is hereby~~
2 ~~amended and recodified as Section 6362.1 of the Public Resources~~
3 ~~Code and shall be subject to Article 5 (commencing with Section~~
4 ~~6362) of Chapter 4 of Part 1 of Division 6 of the Public Resources~~
5 ~~Code.~~

6 ~~(b) There is hereby granted to the City of Martinez, and to its~~
7 ~~successors, all right, title, and interest of the state held by virtue~~
8 ~~of its sovereignty in and to the Martinez Marina and the three~~
9 ~~parcels of land situated in the County of Contra Costa and~~
10 ~~described as follows:~~

11
12 Parcel "A"

13 ~~Commencing at the intersection of the north line of Tideland~~
14 ~~Survey No. 9 and the east line of North Court Street as shown on~~
15 ~~Map of "City of Martinez Waterfront Area" filed March 10, 1955,~~
16 ~~in Volume 16, Pages 39 to 43, Licensed Surveyor's Maps in the~~
17 ~~Office of the Contra Costa County Recorder; thence along said~~
18 ~~northerly line of Tideland Survey No. 9 North 76° 56' 53" East~~
19 ~~488.36 feet; thence leaving said northerly line North 20° 03' 30"~~
20 ~~West 130.00 feet; thence North 63° 50' 00" East 85.00 feet to the~~
21 ~~true point of beginning; thence North 03° 30' 00" East 110.00 feet;~~
22 ~~thence North 12° 10' 00" East 660.00 feet; thence North 05° 05'~~
23 ~~39" West 119.71 feet; thence North 88° 03' 16" East 242.85 feet;~~
24 ~~thence South 12° 10' 00" West 797.24 feet; thence South 63° 50'~~
25 ~~00" West 233.84 feet to the point of beginning.~~

26
27 Parcel "B"

28 ~~Commencing at the intersection of the north line of Tideland~~
29 ~~Survey No. 9 and the east line of North Court Street as shown on~~
30 ~~Map of "City of Martinez Waterfront Area" filed March 10, 1955,~~
31 ~~in Volume 16, Pages 39 to 43, Licensed Surveyor's Maps in the~~
32 ~~Office of the Contra Costa County Recorder; thence along said~~
33 ~~northerly line of Tideland Survey No. 9 North 76° 56' 53" East~~
34 ~~488.36 feet; thence leaving said northerly line North 20° 03' 30"~~
35 ~~West 130.00 feet; thence North 63° 50' 00" East 318.84 feet to~~
36 ~~the true point of beginning being the southeasterly corner of Parcel~~
37 ~~"A" described above; thence North 12° 10' 00" East 797.24 feet~~
38 ~~along the east line of said Parcel "A"; thence leaving said east line~~
39 ~~North 88° 03' 16" East 156.26 feet; thence South 89° 00' 00" East~~
40 ~~100.00 feet; thence South 66° 20' 00" East 120.00 feet; thence~~

1 South 25° 45' 00" East 453.00 feet; thence South 68° 10' 00" West
2 385.00 feet; thence South 63° 50' 00" West 416.16 feet to the point
3 of beginning.

4
5 Parcel "C"

6 That parcel of land described in the lease to the Southern Pacific
7 Transportation Company by the City of Martinez per Resolution
8 No. 111 (1959 series) dated August 5, 1959, and Resolution No.
9 72-75 dated June 4, 1975.

10 The bearings and distances used in the above descriptions of
11 Parcels "A" and "B" are based on the California Coordinate System
12 Zone 3 as shown on Map of "City of Martinez Waterfront Area"
13 filed March 10, 1955, in Volume 16, Pages 39 to 43, Licensed
14 Surveyor's Maps in the Office of the Contra Costa County
15 Recorder.

16 (e) These lands shall be held by the city and its successor in
17 trust for the following uses, in which there is a general, statewide
18 interest, and upon the following express conditions:

19 (1) The Martinez Marina shall be used only for marina purposes.

20 (2) Parcel "A" shall be used only for Marina spoils and spoil
21 removal, parking, boat storage, chandlery, recreation, landscaping,
22 and any other use permitted by the Martinez Waterfront Land Use
23 Plan.

24 (3) Parcel "B" shall be used only for Marina spoils and spoil
25 removal and any other use permitted by the Martinez Waterfront
26 Land Use Plan.

27 (4) Parcel "C" shall be used only in its present use as a railroad
28 right-of-way.

29 (d) Further, all of these uses shall accord with the terms and
30 conditions of the lease and agreements specified in subdivision (f)
31 of Section 1 of Chapter 815 of the Statutes of 1976, and the
32 development and operation of the entire area of these parcels shall
33 be under the supervision of the city-state committee, in the same
34 manner as is presently provided by the lease and agreements with
35 respect to lands subject to the lease and agreements.

36 (e) The grant made by this section shall not become effective
37 unless and until the city files quitclaim to all previously granted
38 tidelands that are within the area hereby granted to the district by
39 Chapter 815 of the Statutes of 1976 and described in Section 15
40 of Chapter 815 of the Statutes of 1976.

1 ~~SEC. 5. Section 13 of Chapter 815 of the Statutes of 1976 is~~
2 ~~amended to read:~~

3 ~~Sec.13. (a) The State Lands Commission shall, from time to~~
4 ~~time, recommend to the Legislature such amendments as it may~~
5 ~~deem necessary in the terms and conditions of this act.~~

6 ~~(b) The State Lands Commission shall, from time to time,~~
7 ~~institute a formal inquiry to determine that the terms and conditions~~
8 ~~of this act, and amendments thereto, have been complied with, and~~
9 ~~that all other applicable provisions of law concerning these specific~~
10 ~~granted lands are being complied with in good faith.~~

11 ~~(c) The State Lands Commission shall, on or before December~~
12 ~~31st of each year, report to the Chief Clerk of the Assembly and~~
13 ~~to the Secretary of the Senate the full details of any transaction or~~
14 ~~conditions reported to the commission pursuant to this act which~~
15 ~~it deems to be in probable conflict with the requirements of this~~
16 ~~act or with any other provision of law.~~

17 ~~(d) This section applies only to the tidelands and submerged~~
18 ~~lands granted to the district pursuant to Section 7 of Chapter 815~~
19 ~~of the Statutes of 1976.~~

20 ~~SEC. 6. Section 14 of Chapter 815 of the Statutes of 1976 is~~
21 ~~amended to read:~~

22 ~~Sec.14. (a) The Legislature reserves the right to amend or~~
23 ~~modify, in whole or in part, the tidelands and submerged lands~~
24 ~~granted and conveyed in trust pursuant to Chapter 815 of the~~
25 ~~Statutes of 1976; provided, however, that the state shall thereupon~~
26 ~~assume and be bound by all lawful transactions and obligations~~
27 ~~related to those lands entered into or created by the district during~~
28 ~~its holding of those lands.~~

29 ~~(b) Subdivision (a) applies only to the tidelands and submerged~~
30 ~~lands granted to the district pursuant to Section 7 of Chapter 815~~
31 ~~of the Statutes of 1976.~~

32 ~~(c) The trust grant made to the City of Martinez pursuant to~~
33 ~~Section 3 of Chapter 815 of the Statutes of 1976, as amended by~~
34 ~~Section 1 of Chapter 387 of the Statutes of 2002, is subject to~~
35 ~~Article 5 (commencing with Section 6362) of Chapter 4 of Part 1~~
36 ~~of Division 6 of the Public Resources Code.~~

37 ~~SEC. 7.~~

38 ~~SEC. 3. No reimbursement is required by this act pursuant to~~
39 ~~Section 6 of Article XIII B of the California Constitution because~~
40 ~~a local agency or school district has the authority to levy service~~

- 1 charges, fees, or assessments sufficient to pay for the program or
- 2 level of service mandated by this act, within the meaning of Section
- 3 17556 of the Government Code.

O